



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Lynn Vouis, Assistant County Attorney *[Signature]*

CONCUR: Pam Hastings *[Signature]*, Administrative Manager/Public Works Department
Ed J. Torres, M.S., P.E., Principal Engineer *[Signature]*
Capital Projects Manager/ Roads-Stormwater Division

DATE: June 7, 2005

SUBJECT: Litigation Settlement Authorization
Owner: B.J.'s Wholesale Club, Inc.
Parcel Nos. 7/4
Elder Creek/C-15 (Ponds) improvement project

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 7/4. These parcels are required for the Elder Creek/C-15 (Ponds) improvement project. The recommended settlement amount is \$115,000.00 inclusive of all fees and costs incurred.

I THE PROPERTY

A. Location Data

The property is located along the east side of N. Elder Road, the south side of Narcissus Avenue, the north side of W. State Road 46 and the west side of County Road 15 (Upsala Road) within unincorporated Seminole County, Florida.

1. Location Map (Exhibit A); and
2. Sketch (Exhibit B)

B. Address

4278 W. State Road 46
Sanford, Florida 32771

C. Description

The parent tract consists of 16.213 gross acres or 11.213 usable acres. The subject site is improved with a 110,979 square foot wholesale commercial warehouse building and parking area built in 2001.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2003-R-121 on July 22, 2003, First Amended Resolution No. 2004-R-80 on April 27, 2004, and First Supplemental Resolution No. 2005-R-78 on April 26, 2005, authorizing the acquisition of the referenced property, and finding that the construction of the Elder Creek/C-15 (Ponds) improvement project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County. The Order of Take hearing is scheduled to occur on July 14, 2005, before the Honorable James E. C. Perry (assigned to case after July 1, 2005).

III ACQUISITION/REMAINDER

Parcel No. 7 (fee simple) is a rectangular strip take which includes a total of 7,889 square feet or 0.1811 acres of land area. Parcel No. 4 (Permanent Drainage Easement) is a rectangular taking that includes 3,600 square feet or 0.0826 acres of land, with a total remainder of 10.949 gross acres.

IV APPRAISED VALUE

The County's initial appraisal, dated August 14, 2003 for Parcel No. 7 was \$68,900.00, and Parcel No. 4 was \$3,200.00. The County's appraisal was prepared by Florida Realty Analysts, Inc., and was approved by the County's MAI designated staff appraiser.

V BINDING OFFER/NEGOTIATIONS

On March 23, 2004, the BCC authorized a binding written offer in the amount of \$5,000.00 for Parcel No. 4 (PDE) and on July 13, 2004, the BCC authorized a binding written offer amount of \$76,000.00 for Parcel No. 7 (Fee), for a total of \$81,000.00. Thereafter County staff negotiated this proposed litigation agreement in the amount of \$115,000.00 inclusive of all fees and costs.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The area near the Sanford Towne Center Mall, where this property is located is one of the most rapidly developing areas in the County, with land values escalating accordingly. If this case proceeded to a contested Order of Take hearing, the appraisal would have to be updated to a still later date of value, with additional appraisal fees to be paid as well. Considering the updated per square foot values common in the area, the proposed settlement of \$115,000.00, inclusive of all fees and costs, is reasonable.

In addition, the property owner has agreed to sign a right of entry agreement with the County, allowing the project to commence prior to an Order of Take being entered. This cooperative attitude on the part of the property owner will save the County additional funds in construction costs.

VII RECOMMENDATION

County staff recommends that the BCC authorize total settlement in the amount of \$115,000.00, inclusive of all fees and costs.

LV/kc

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

P:\USERS\ILVOUIS\SETTLEMENT MEMOS\ELDER CREEK\AGENDA ITEM ELDER CREEK BJ'S WHOLESALE.DOC

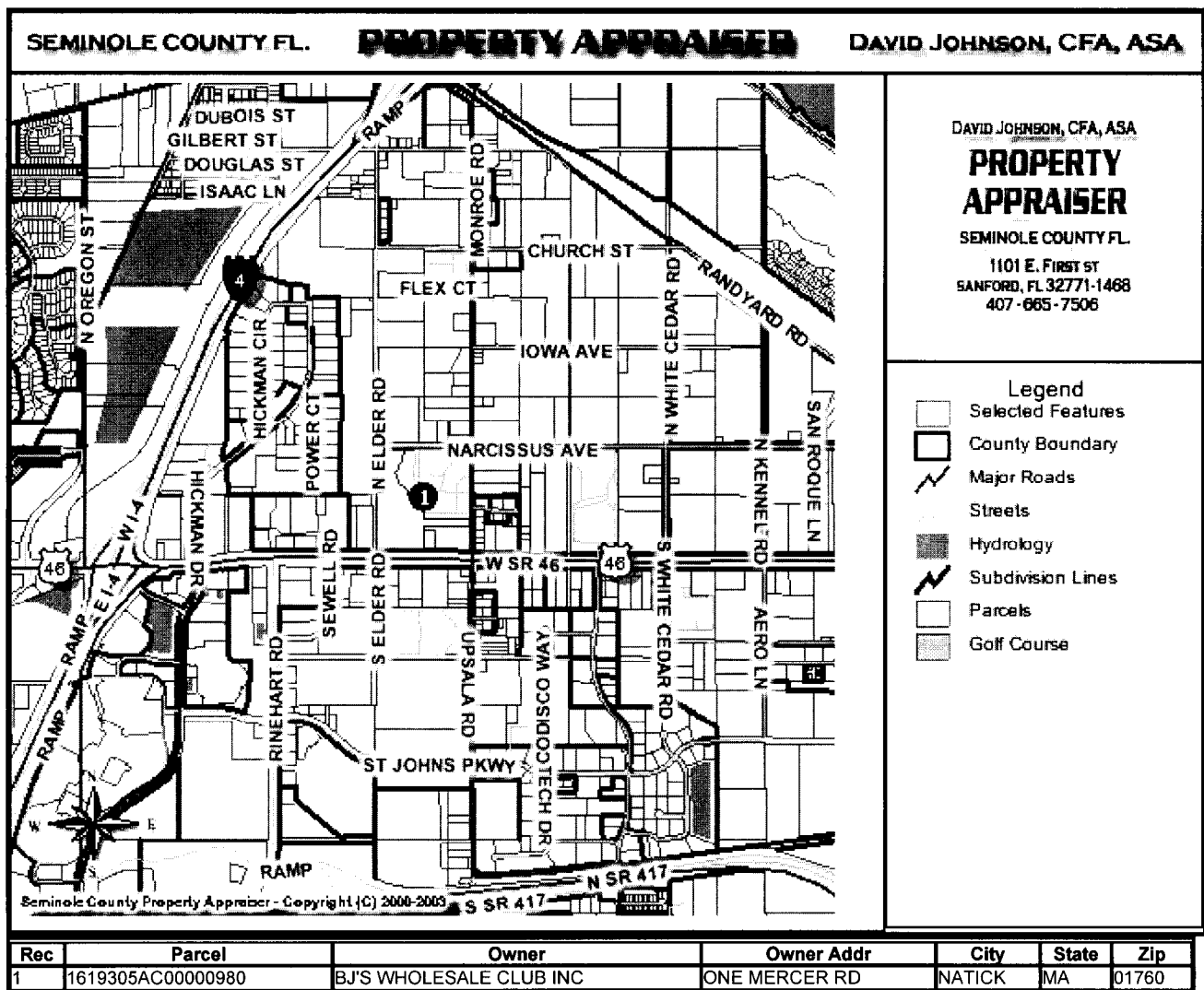


EXHIBIT A

PROPERTY SKETCH

Parent Tract	16.213 gross acres or 11.213 usable acres (Shaded Gray, Blue & Green)
Fee Acquisition	7,889 square feet or 0.1811 acres (Shaded Blue)
Permanent Drainage Easement Acq.	3,600 square feet or 0.0826 acres (Shaded Green)
Remainder	15.949 gross acres or 10.949 usable acres

PARCEL 7/4

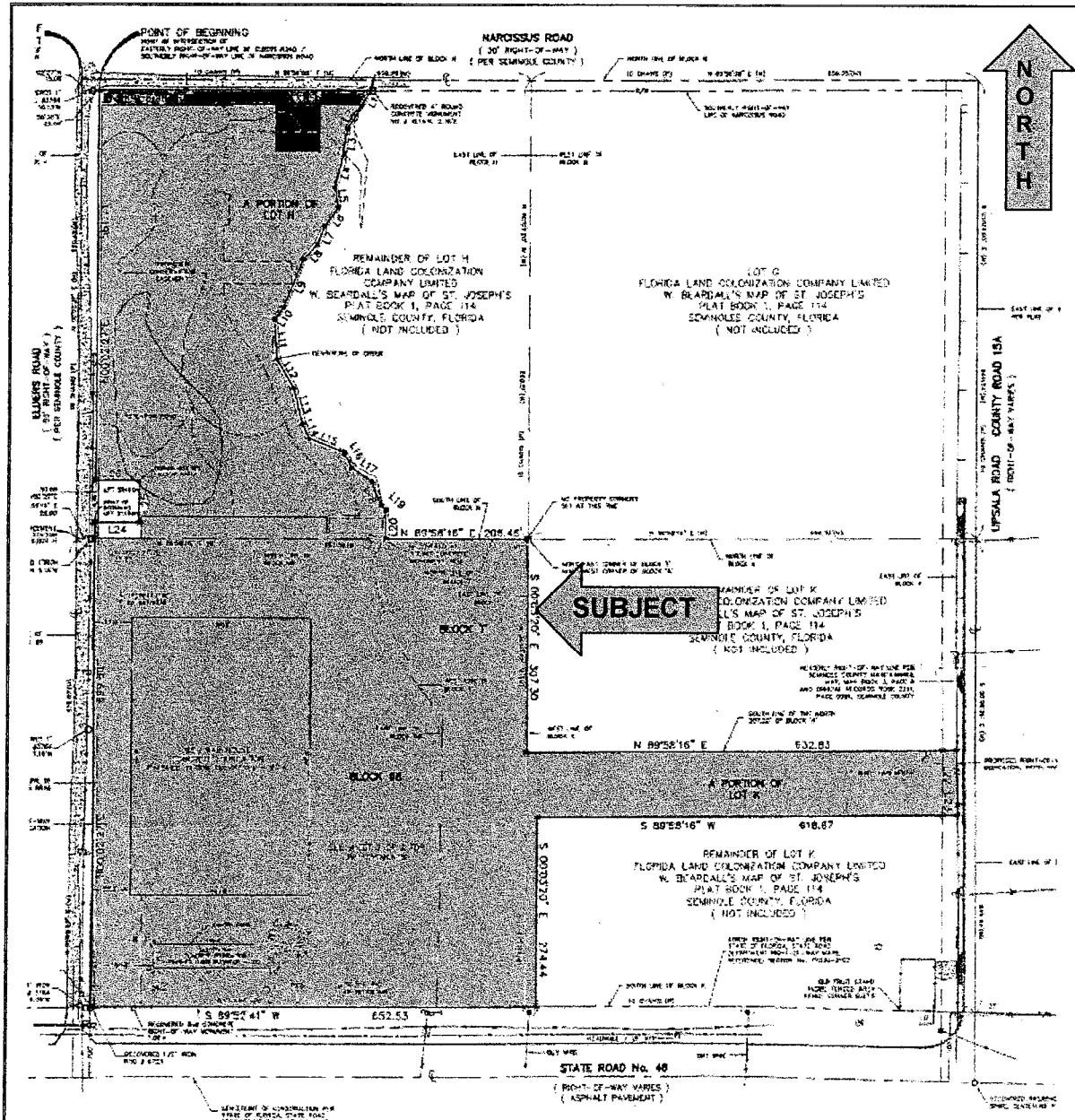


EXHIBIT B

Parcel No.: 7/4	Client: Seminole County
Project: C. R. 15 (Upsala Rd.)/Elder Creek	Appraiser: Florida Realty Analysts, Inc.